

House File 2661 - Enrolled

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HOUSE FILE 2661

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1 3 AN ACT

1 4 RELATING TO THE LINKED INVESTMENTS FOR TOMORROW ACT.

1 5

1 6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 7

1 8 Section 1. Section 12.31, Code 2005, is amended to read as

1 9 follows:

1 10 12.31 SHORT TITLE.

1 11 This section and sections 12.32 through ~~12.43B~~ 12.43 shall

1 12 be known as the "Linked Investments for Tomorrow Act".

1 13 Sec. 2. Section 12.32, Code 2005, is amended to read as

1 14 follows:

1 15 12.32 DEFINITIONS.

1 16 As used in section 12.31, this section, and sections ~~12.33~~

1 17 12.34 through ~~12.43B~~ 12.43, unless the context otherwise

1 18 requires:

1 19 1. "Eligible borrower" means any person who is in the

~~1 20 business or is entering the business of producing, processing,~~

~~1 21 or marketing horticultural crops or nontraditional crops in~~

~~1 22 this state or any person in this state who is qualified to~~

1 23 participate in one of the programs in this section and

1 24 sections ~~12.33~~ 12.34 through ~~12.43B~~ 12.43. "Eligible

1 25 borrower" does not include a person who has been determined to

1 26 be delinquent in making child support payments or any other

1 27 payments due the state.

1 28 2. "Eligible lending institution" means a financial

1 29 institution that is empowered to make commercial loans and is

1 30 eligible pursuant to chapter 12C to be a depository of state

1 31 funds.

1 32 3. "Linked investment" means a certificate of deposit

1 33 ~~placed issued~~ pursuant to this section and sections ~~12.33~~

1 34 12.34 through ~~12.43B~~ 12.43 to the treasurer of state with

1 35 ~~by~~ an eligible lending institution, at an interest rate not

2 1 more than three percent below current market rate on the

2 2 condition that the institution agrees to lend the value of the

2 3 deposit, according to the investment agreement provided in

2 4 section 12.35, to an eligible borrower at a rate not to exceed

2 5 four percent above the rate paid on the certificate of

2 6 deposit. The treasurer of state shall determine and make

2 7 available the current market rate which shall be used each

2 8 month.

2 9 ~~4. "Qualified linked investment" means a linked investment~~

~~2 10 in which a certificate of deposit is placed by the treasurer~~

~~2 11 of state with an eligible lending institution under the~~

~~2 12 traditional livestock producers linked investment loan program~~

~~2 13 established under section 12.43A.~~

2 14 Sec. 3. Section 12.34, Code 2005, is amended to read as

2 15 follows:

2 16 12.34 LINKED INVESTMENTS == LIMITATIONS == RULES ==

2 17 MATURITY AND RENEWAL OF CERTIFICATES.

2 18 1. The treasurer of state may invest up to the lesser of

2 19 one hundred eight million dollars or ~~ten~~ twenty-five percent

2 20 of the balance of the state pooled money fund in certificates

2 21 of deposit in eligible lending institutions as provided in

2 22 ~~sections section 12.32 and 12.33~~, this section, and sections

2 23 12.35 through ~~12.43B~~ 12.43. ~~The moneys invested pursuant to~~

~~2 24 this section shall be used as follows:~~

2 25 a. ~~The treasurer of state may invest up to sixty-eight~~

~~2 26 million dollars to support programs provided in sections 12.32~~

~~2 27 and 12.33, this section, and sections 12.35 through 12.43B~~

~~2 28 other than the traditional livestock producers linked~~

~~2 29 investment loan program as provided in section 12.43A and the~~

~~2 30 value-added agricultural linked investment loan program as~~

~~2 31 provided in section 12.43B.~~

2 32 b. ~~The treasurer of state shall invest the remaining~~

~~2 33 amount as follows:~~

2 34 (1) ~~At least twenty million dollars shall be invested in~~

~~2 35 order to support the traditional livestock producers linked~~

~~3 1 investment loan program as provided in section 12.43A.~~

3 2 (2) ~~At least twenty million dollars shall be invested in~~

~~3 3 order to support the value-added agricultural linked~~

3 4 investment loan program as provided in section 12.43B. One=
3 5 half of the moneys invested pursuant to this section shall be
3 6 made available under the program implemented pursuant to
3 7 section 12.43 to increase the availability of lower cost
3 8 moneys for purposes of injecting needed capital into small
3 9 businesses which are fifty-one percent or more owned,
3 10 operated, and actively managed by one or more women, minority
3 11 persons, or persons with disabilities. "Disability" means the
3 12 same as defined in section 15.102, subsection 5. A "minority
3 13 person" means the same as defined in section 15.102,
3 14 subsection 5. The treasurer shall invest the remaining one=
3 15 half of the moneys invested pursuant to this section to
3 16 support any other eligible applicant as provided in section
3 17 12.43.

3 18 2. ~~a.~~ The treasurer of state shall adopt rules pursuant
3 19 to chapter 17A to administer ~~sections section 12.32 and 12.33,~~
3 20 this section, and sections 12.35 through ~~12.43B~~ 12.43.

3 21 ~~b.~~ The treasurer of state in cooperation with the board of
3 22 ~~directors of the agricultural development authority as~~
3 23 ~~established in section 175.3 shall adopt rules for the~~
3 24 ~~administration of the traditional livestock producers linked~~
3 25 ~~investment loan program as provided in section 12.43A. The~~
3 26 ~~treasurer of state in cooperation with the agricultural~~
3 27 ~~products advisory council established in section 15.203 shall~~
3 28 ~~adopt rules for the administration of the value-added~~
3 29 ~~agricultural linked investment loan program as provided in~~
3 30 ~~section 15.204.~~

3 31 3. A certificate of deposit, ~~which is placed by that is~~
3 32 ~~issued to the treasurer of state with by an eligible lending~~
3 33 ~~institution on or after July 1, 1996~~ 2006, may be renewed at
3 34 the option of the treasurer ~~on an annual basis for a total~~
3 35 ~~term not to exceed five years. The following shall apply to~~
4 1 ~~the certificate of deposit:~~

4 2 a. ~~For a linked investment other than a qualified linked~~
4 3 ~~investment, the initial certificate of deposit for a given~~
4 4 ~~borrower shall have a maturity of one year. The certificate~~
4 5 ~~of deposit may be renewed on an annual basis for a total term~~
4 6 ~~not to exceed five years.~~

4 7 b. ~~For a qualified linked investment, the initial~~
4 8 ~~certificate of deposit for a given borrower shall have a~~
4 9 ~~maturity of one year. The certificate of deposit may be~~
4 10 ~~renewed on an annual basis for a total term not to exceed~~
4 11 ~~three years. All participants with certificates of deposit~~
4 12 ~~issued prior to July 1, 2006, are subject, for renewal~~
4 13 ~~certificates of deposit, to the requirements and terms~~
4 14 ~~applicable to the certificates of deposit issued prior to July~~
4 15 ~~1, 2006.~~

4 16 Sec. 4. Section 12.35, subsection 1, Code 2005, is amended
4 17 to read as follows:

4 18 1. An eligible lending institution that desires to receive
4 19 a linked investment shall enter into an agreement with the
4 20 treasurer of state, which shall include requirements necessary
4 21 for the eligible lending institution to comply with sections
4 22 12.32 through 12.34, this section, and sections 12.36 through
4 23 ~~12.43B~~ 12.43.

4 24 Sec. 5. Section 12.36, subsection 2, Code 2005, is amended
4 25 to read as follows:

4 26 2. Upon acceptance of the linked investment loan package
4 27 or any portion of the package, the treasurer of state shall
4 28 ~~place certificates of deposit funds with the eligible lending~~
4 29 ~~institution at a rate not more than three percent below the~~
4 30 ~~current market rate and the eligible lending institution shall~~
4 31 ~~issue to the treasurer of state one or more certificates of~~
4 32 ~~deposit with interest at a rate determined pursuant to section~~
4 33 ~~12.32, subsection 3. The treasurer of state shall not place a~~
4 34 ~~certificate of deposit funds with an eligible lending~~

4 35 institution pursuant to sections 12.32 ~~through, 12.34,~~ 12.35,
5 1 this section, and sections 12.37 through ~~12.43B~~ 12.43, unless
5 2 the certificate of deposit earns a rate of interest of at
5 3 least ~~two~~ one percent. Interest earned on the certificate of
5 4 deposit and principal not renewed shall be remitted to the
5 5 treasurer of state at the time the certificate of deposit
5 6 matures. Interest from the linked investments for tomorrow
5 7 program shall be considered earnings of the general fund of
5 8 the state. Certificates of deposit placed issued pursuant to
5 9 sections 12.32 through, 12.34, 12.35, this section, and
5 10 sections 12.37 through ~~12.43B~~ 12.43 are not subject to a
5 11 penalty for early withdrawal.

5 12 Sec. 6. Section 12.38, Code 2005, is amended to read as
5 13 follows:

5 14 12.38 REPORTS.

5 15 By February 1 of each year, the treasurer of state shall
5 16 report on the linked investments for tomorrow programs for the
5 17 preceding calendar year to the governor, the department of
5 18 economic development, the speaker of the house of
5 19 representatives, and the president of the senate. The speaker
5 20 of the house shall transmit copies of this report to the house
5 21 co-chair of the joint economic development appropriations
5 22 subcommittee and the chairs of the standing committees in the
5 23 house which customarily consider legislation regarding
5 24 agriculture, ~~and commerce, and economic growth~~, and the
5 25 president of the senate shall transmit copies of this report
5 26 to the senate co-chair of the joint economic development
5 27 appropriations subcommittee and the chairs of the standing
5 28 committees in the senate which customarily consider
5 29 legislation regarding agriculture, ~~and commerce, and economic~~
5 30 ~~growth~~. The report shall set forth the linked investments
5 31 made by the treasurer of state under the program during the
5 32 year, the total amount deposited, the number of deposits, and
5 33 an estimate of foregone interest, and shall include
5 34 information regarding the nature, terms, and amounts of the
5 35 loans upon which the linked investments were based and ~~the a~~
6 1 ~~listing of~~ eligible borrowers to which the loans were made.

6 2 Sec. 7. Section 12.43, Code 2005, is amended to read as
6 3 follows:

6 4 12.43 ~~FOCUSED~~ SMALL BUSINESS LINKED INVESTMENTS PROGRAM
6 5 CREATED == DEFINITIONS.

6 6 The treasurer of state shall adopt rules to implement a
6 7 ~~focused~~ small business linked investments program to increase
6 8 the availability of lower cost funds to inject needed capital
6 9 into small businesses owned and operated ~~by women or~~
6 10 ~~minorities in this state by residents of this state~~, which is
6 11 the public policy of the state. The rules shall be in
6 12 accordance with the following:

6 13 1. As used in this section:

6 14 a. ~~"Disability" is defined as provided in section 15.102,~~
6 15 ~~subsection 5.~~

6 16 b. ~~"Focused small~~ "small business" means ~~a one of the~~
6 17 ~~following:~~

6 18 a. ~~A new or existing small business which is fifty-one~~
6 19 ~~percent or more owned, operated, and actively managed by one~~
6 20 ~~or more women, minority persons, or persons with a disability,~~
6 21 ~~provided the business that~~ meets all the requirements of
6 22 subsection 5.

6 23 c. ~~"Major life activity" is defined as provided in section~~
6 24 ~~15.102, subsection 5.~~

6 25 d. ~~"Minority person" is defined as provided in section~~
6 26 ~~15.102, subsection 5.~~

6 27 b. ~~For applications to transfer an existing small business~~
6 28 ~~to a new owner, the small business must also meet the~~
6 29 ~~requirements of subsection 5 when local competition does not~~
6 30 ~~exist in the principal area of business activity of the~~
6 31 ~~existing small business, and the loss of the existing small~~
6 32 ~~business would result in a hardship on the community.~~

6 33 2. Loan applications for a ~~focused new or existing~~ small
6 34 business shall be for the purchase of land, ~~improvements,~~
6 35 ~~fixtures, machinery, inventory, supplies, equipment,~~
7 1 ~~information technology, or licenses, or patent, trademark, or~~
7 2 ~~copyright fees and expenses. Loan applications for the~~
7 3 ~~transfer of an existing small business shall be to assist in~~
7 4 ~~the transfer of ownership of retail, wholesale, manufacturing,~~
7 5 ~~service, or agricultural business that may close in the~~
7 6 ~~absence of sufficient financial assistance.~~

7 7 3. During the lifetime of this loan program, the maximum
7 8 amount of assistance that an eligible borrower or business may
7 9 borrow or receive through this loan program shall be ~~one two~~
7 10 ~~hundred thousand dollars~~. An eligible borrower or business
7 11 under this program shall be limited to one loan from one
7 12 financial institution.

7 13 4. A preference shall be given to those persons who are
7 14 less able than other persons to secure funds for a ~~focused~~
7 15 small business without participation in the ~~focused~~ small
7 16 business linked investment program.

7 17 5. In order to qualify under this program, all owners of
7 18 the business or borrowers must not have a combined net worth
7 19 exceeding ~~five seven~~ fifty thousand dollars as defined
7 20 in rules adopted by the treasurer of state pursuant to chapter
7 21 17A and the ~~focused~~ small business must meet all of the
7 22 following criteria:

7 23 a. Be a for-profit business.

7 24 b. ~~Have~~ If an application involves an existing business or
7 25 the transfer of an existing business to a new owner, the

7 26 business must have annual gross sales of two million dollars
7 27 or less at the time the application is submitted under section
7 28 12.35.

7 29 c. Not be operated out of the home of any person, unless
7 30 the person is eligible for a deduction on federal income taxes
7 31 pursuant to 26 U.S.C. } 280A.

7 32 d. Not involve real estate investments, rental of real
7 33 estate, leasing of real estate, or real estate speculation.

7 34 e. Liquor, beer, and wine sales must not exceed twenty
7 35 percent of annual sales for establishments holding a class "C"
8 1 liquor license issued pursuant to section 123.30.

8 2 f. If an application involves the transfer of an existing
8 3 small business, the transfer must be by purchase, lease=
8 4 purchase, or contract of sale. The purchase must be for all
8 5 or a portion of the business which is essential to its
8 6 continued viability, including land where the business is
8 7 located, fixtures attached to the land, machinery, inventory,
8 8 supplies, equipment, information technology, or licenses,
8 9 patents, trademarks, copyrights, or other intellectual
8 10 property relied upon by the business, and inventory for sale
8 11 by the business.

8 12 6. Loan proceeds shall not be used to refinance existing
8 13 debt, including credit card debt. However, proceeds may be
8 14 used to refinance a short-term bridge loan made in
8 15 anticipation of the treasurer of state's approval of the
8 16 linked investment loan package.

8 17 7. Eligible lending institutions shall verify the borrower
8 18 is eligible to participate under the provisions of this
8 19 section pursuant to rules adopted by the treasurer of state
8 20 pursuant to chapter 17A.

8 21 Sec. 8. Sections 12.33, 12.40, 12.41, 12.43A, 12.43B, and
8 22 15.204, Code 2005, are repealed.

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8 26 CHRISTOPHER C. RANTS
8 27 Speaker of the House

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8 31 JEFFREY M. LAMBERTI
8 32 President of the Senate

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8 34 I hereby certify that this bill originated in the House and
8 35 is known as House File 2661, Eighty-first General Assembly.

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9 4 MARGARET THOMSON
9 5 Chief Clerk of the House

9 6 Approved _____, 2006

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9 10 THOMAS J. VILSACK
9 11 Governor